

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, APRIL 17, 2001
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:03 a.m. The meeting was recessed by Mayor Murphy at 10:11 a.m. to convene the Housing Authority. The meeting was reconvened at 10:12 a.m. with all Council Members present and Council District 6 vacant. The meeting was recessed at 12:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:05 p.m. with all Council Members present and Council District 6 vacant. The meeting was recessed by Mayor Murphy at 3:20 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 3:25 p.m. with all Council Members present and District 6 vacant. The meeting was recessed by Mayor Murphy at 5:24 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 5:29 p.m. with all Council Members present and District 6 vacant. Mayor Murphy adjourned the meeting at 6:40 p.m.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Wear-present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council District-vacant

(7) Council Member Madaffer-present

(8) Council Member Inzunza-present

Clerk-Abdelnour (er/pr)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Wear-present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council District-vacant
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-not present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Comment by Bob Spellman regarding the De Anza Cove Community.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A019-053.)

PUBLIC COMMENT-2:

Comment by Kathleen McIntosh regarding CDBG funding.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A053-072.)

COUNCIL COMMENT:

COUNCIL COMMENT-1: **REFERRED TO THE CITY MANAGER**

Comment by Council Member Wear regarding downtown traffic concerns.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A078-086.)

ITEM-330: Otay Valley Regional Park Concept Plan.

Matter of approving, conditionally approving, modifying or denying the Otay Valley Regional Park Concept Plan. The Otay Valley Regional Park Concept Plan is a joint effort between the County of San Diego and the Cities of San Diego and Chula Vista. The proposed regional park boundary encompasses approximately 10,000 acres in an area which extends approximately eleven miles from San Diego Bay eastward along the Otay River Valley to Lower Otay Reservoir.

(Otay Mesa-Nestor and Otay Mesa Community Plan Areas. Districts-2 & 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions in subitems A and B:

Subitem-A: (R-2001-1253) ADOPTED AS RESOLUTION R-294777

Adoption of a Resolution approving the Otay Valley Regional Park Concept Plan.

Subitem-B: (R-2001-1261) ADOPTED AS RESOLUTION R-294778

Adoption of a Resolution certifying that the information contained in the final document, Final Environmental Impact Report (EIR) LDR-93-0287, certified by the City Council by Resolution R-288457, on March 18, 1997, including any comments received during the public review process, has been reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline section 15162 would warrant any additional environmental review in connection with approval of the Otay Valley Regional Park Concept Plan.

OTHER RECOMMENDATIONS:

Planning Commission on April 30, 1998, voted 6 - 0 to approve; no opposition.

Ayes: Watson, Skorepa, Steele, Anderson, Butler, White

Not present: Quinn

Community Planning Group Recommendation - The Focused Planning Area (FPA) of the Otay Valley Regional Park includes portions of the Otay Mesa and Otay Mesa-Nestor community planning areas. A Preliminary Draft of the Concept Plan was presented as an information item to the Otay Mesa and Otay Mesa-Nestor planning groups on November 15, 1995 and January 10, 1996, respectively. No action by the groups was taken at those meetings. These planning groups and many other planning and advisory groups (12 total) in the three jurisdictions have reviewed the Concept Plan during various stages of its development, and all have generally recommended approval of the plan. Appendix "C" (page 72) of the Concept Plan lists the various groups and the Concept Plan review dates. The Otay Mesa and Otay Mesa-Nestor community planning groups are also represented by membership on the OVRP Citizen Advisory Committee (CAC); see below.

OVRP Citizen Advisory Committee (CAC) Recommendations - On January 17, 1997 the CAC voted (12-0-1) to recommend to the OVRP Policy Committee approval of the Preliminary Draft Concept Plan, with modifications.

OVRP Policy Committee Recommendations - On July 18, 1997 the Policy Committee voted (3-0) to accept the Draft Concept Plan, with modifications and directed staff to proceed to the Planning Commissions and City Councils/Board of Supervisors of each jurisdiction for adoption of the Concept Plan.

County of San Diego Planning Commission Recommendations - On December 19, 1997 the County of San Diego Planning Commission voted (6-0-1) to recommend to the County Board of Supervisors that the County Board of Supervisors adopt the Concept Plan.

SUPPORTING INFORMATION:

The Otay Valley Regional Park Concept Plan was prepared by staff from the Cities of San Diego and Chula Vista and the County of San Diego to provide a conceptual framework for development of a linear regional park focused on the Otay River Valley from San Diego Bay inland to Lower Otay Lake. It is anticipated that the primary purpose of the park will be to protect natural habitats along the river. Some areas with less sensitive biological resources are proposed as active recreation areas and it is anticipated that a trail system will serve the future park.

The Concept Plan is consistent with other adopted Plans for the area including the Otay Mesa and Otay Mesa-Nestor Community Plans. If the Concept Plan is adopted by the City Councils of San Diego and Chula Vista and the San Diego County Commission, a more detailed park master plan will be prepared for the area.

The Concept Plan has been previously approved by the San Diego Planning Commission (April 30, 1998), Chula Vista Planning Commission (September 21, 1998) and San Diego County Planning Commission (December 19, 1997).

Since 1998 there have been no changes to the proposals in the Concept Plan. The document has been modified slightly only to reflect existing conditions as of February 1, 2001. Forwarding this document to the City Councils and County Commissions was delayed to allow Chula Vista to complete its MSCP program and to make sure their MSCP program was consistent with the recommendations of the Concept Plan. A further delay of a few months has occurred to await election of a new District 8 Council representative.

FISCAL IMPACT:

None.

All costs associated with the preparation of this Concept Plan have been shared by the County of San Diego and the Cities of Chula Vista and San Diego, the three cooperating agencies. All City of San Diego costs have been charges to the General Fund.

Ewell/Goldberg/WML

FILE LOCATION: SUBITEMS A & B:LAND - Otay Valley Regional Park
Concept Plan (10)

COUNCIL ACTION: (Tape location: A120-285.)

Hearing began at 10:13 a.m. and halted at 10:26 a.m.

Testimony in favor by Ruth Schneider.

MOTION BY INZUNZA TO ADOPT. Second by Wear. Passed by the following vote:
Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, District 6-vacant,
Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-331: Fanuel Street Rezone and Local Coastal Program Amendment.

Matter of approving, conditionally approving, modifying or denying a request to rezone a 0.29-acre property located at 4527, 4533, and 4545 Fanuel Street from CO-1-2 (Commercial-Office) to CC-3-4 (Commercial-Community).

The proposed rezone is located in the Coastal Zone, therefore the City Council's decision requires amending the City's Local Coastal Program. As a result, the final decision on this rezone will be with the California Coastal Commission. The City of San Diego must submit this as an amendment for certification to the Coastal Commission. The amendment is not effective in the Coastal Zone until the Coastal Commission unconditionally certifies the amendment.

(Rezone No. 40-0266. Pacific Beach Community Plan area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Introduce the Ordinance:

(O-2001-128) CONTINUED TO TUESDAY, MAY 8, 2001

Introduction of an Ordinance changing 0.29 acres located at 4527 and 4545-4547 Fanuel Street, within the Pacific Beach Community Plan area, from the CO-1-2 (Commercial-Office) Zone into the CC-3-4 (Commercial-Community) Zone, as defined by San Diego Municipal Code Section 131.0507; and repealing Ordinance No. O-10364 (New Series), adopted August 13, 1970, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

OTHER RECOMMENDATIONS:

Planning Commission voted 5-1 to approve; was opposition.

Ayes: Steele, Skorepa, Brown, Stryker, Garcia

Nays: Anderson

The Pacific Beach Community Planning Group has recommended denial of the proposed rezone.

CITY MANAGER SUPPORTING INFORMATION:

The project site is a 0.29-acre property located at the southeast corner of Fanuel Street and Felspar Street, within Pacific Beach. The property is developed with three existing commercial buildings, parking, and landscaping. The buildings are currently occupied by a dentist office, a motorcycle sales and service shop, a hair salon, and one 2-bedroom apartment unit upstairs.

The property is currently zoned CO-1-2 (Commercial-Office). This zone allows a mix of office and residential uses, but does not allow commercial services such as the hair salon, nor does it allow vehicle sales and service such as the motorcycle shop. The dentist office is an allowed use.

In September of 1999, the City's Code Compliance Department investigated the site in response to complaints from the neighborhood. After inspecting the site, Code Compliance determined that both the hair salon and motorcycle shop uses were not permitted in the CO-1-2 zone, and were thus in violation of the City's Municipal Code. The Code Enforcement Case against the

property has been held in abeyance to allow the property owner to seek City Council approval of a rezone that would permit both the hair salon and motorcycle shop to continue to operate on the premises.

In April of 2000, the owner submitted to the City a rezone application requesting the CC-1-1(Commercial-Regional) zone. This zone would allow a wide variety of retail and commercial uses, including vehicle and vehicle equipment sales and service (motorcycle shop).

On July 24, 2000, the Pacific Beach Community Planning Committee took formal action on the Fanuel Rezone proposal from CO-1-2 to CC-1-1 and voted (8-1-5) to recommend denial of the rezone request. The committee's action was based primarily on public testimony and opposition provided by residents in the surrounding neighborhood. Most of the complaints centered around the noise and vibration generated or caused by the existing motorcycle shop, including noise impacts associated with motorcycle repair activities (dynamometer), motorcycle noise from customers arriving and leaving the property, and extraneous motorcycle-related activities on the site (parties and road rallies).

Based primarily on opposition from the planning group and surrounding neighbors, the applicant agreed to revise the rezone application to request the CC-3-4 zone, which is a community commercial zone intended to accommodate development with a pedestrian orientation. The CC-3-4 zone prohibits vehicle and vehicle equipment sales and service. Therefore, the sales, rental, service, repair, or maintenance of motorcycles or motorcycle equipment would not be permitted on the property. The CC-3-4 zone would, however, allow the hair salon to continue to operate.

On November 27, 2000, the applicant presented the revised rezone request to the Pacific Beach Community Planning Committee. Before voting on the revised rezone request, the Planning Committee chair determined that the committee would have to reconsider and rescind their previous vote (by a two-thirds majority). That motion to rescind their previous vote failed, and no further action was taken by the Committee on the requested CC-3-4 zone.

On December 14, 2000, this proposed rezone request was considered by the Planning Commission. During that hearing, considerable concern was expressed by neighbors regarding several uses permitted under the proposed CC-3-4 zone. In an effort to prohibit certain uses permitted by the proposed zone but deemed inappropriate by neighbors, the applicant volunteered to restrict uses through a recorded deed restriction. The Planning Commission hearing was continued in order to provide the applicant the opportunity to both record the deed restriction, and allow the Pacific Beach Community Planning Committee to review and consider the deed restriction. On January 22, 2001, the Pacific Beach Community Planning Committee rejected the rezone request and deed restriction.

Finally, on February 15, 2001, the Planning Commission approved the proposed rezone (without the deed restriction).

FISCAL IMPACT:

None.

LEGAL DESCRIPTION:

The 0.29 acres located at 4527 and 4545-4547 Fanuel Street, as shown on Zone Map Drawing No. B-4147, and is more particularly described as Parcels 1 and 2 of Parcel Map No. 00397.

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15060(c)(2).

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: A291-C096.)

Hearing began at 10:26 a.m. and halted at 11:36 a.m.

Testimony in opposition by Otto Emme, George Lutz, Patricia Campanella, Mike Bomberger, Charlie Blane, Robert Wright, Kathleen Strohlein, Al Strohlein.

Testimony in favor by Matt Peterson, Randy Aron, Susi Guidi, Janet Gillihan, Russell Berkley.

The hearing was closed by common consent.

MOTION BY WEAR TO CONTINUE TO MAY 8, 2001 TO ALLOW STAFF TIME TO WORK OUT A SOLUTION WITH THE APPLICANT/OWNER OF THE HAIR SALON. Second by Maienschein. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, District 6-vacant, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-332: Chevron Gas Station - Sorrento Hills.

Matter of the appeals by Chevron Products and Richard Kiy for Torrey Hills Community Coalition, from the decision of the Planning Commission in denying

the appeal of the decision of the Hearing Officer and approving the project with modifications. Chevron Corporation proposes to construct and operate a limited-hours gas station, mini-mart and automated car wash facility on a vacant 2.48-acre site located at the southwest corner of Carmel Mountain Road and East Ocean Air Drive within the Sorrento Hills Community Plan area.

(99-1200 PCD/CUP. Sorrento Hills Community Plan Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution in subitem A; and adopt the resolution in subitem B to deny the appeals and grant the permit:

Subitem-A: (R-2001-) CONTINUED TO TUESDAY, JUNE 26, 2001

Adoption of a Resolution certifying that the information contained in Environmental Mitigated Negative Declaration (MND) LDR-99-1200 has been completed in compliance with the California Environmental Quality Act of 1970 and State guidelines, and that said MND reflects the independent judgment of the City of San Diego as Lead Agency; stating for the record that the final MND has been reviewed and considered by the Council prior to approving the project; and adopting the Mitigation Monitoring and Reporting Program (MMRP) prepared for the project, pursuant to California Public Resources Code Section 21081.

Subitem-B: (R-2001-) CONTINUED TO TUESDAY, JUNE 26, 2001

Adoption of a Resolution granting or denying the appeal and granting or denying Planned Commercial Development/Conditional Use Permit No. 99-1200, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on February 1, 2001 voted 6 - 0 to deny the Sorrento Hills Community Planning Board's appeal and upheld the previous decision of the Hearing Officer approving the project, however, the Commission conditioned their approval of this project upon modifications; was opposition.

Ayes: Anderson, Garcia, Steele, Brown, Butler, Stryker
Not present: Skorepa

The Sorrento Hills Planning Committee on October 17, 2000, voted unanimously (8- 0) to recommend denial of the project.

CITY MANAGER SUPPORTING INFORMATION:

The 2.48-acre project site is located at the southwest corner of Carmel Mountain Road and East Ocean Air Drive within the CC-1-3 (formerly the CA) zone of the Sorrento Hills Community Plan.

In summary, the project proposes to construct and operate a self-service gasoline station, convenience store, and an automated car wash on the subject property. Following is a description of the various building and site improvements proposed for this project:

Gas station: Construct a self-service gas station in the central portion of the property; including the installation of two (20,000 gallon) underground fuel storage tanks, six fuel pump islands (totaling 12 fuel dispensers), and construction of a 23-foot high steel frame canopy above the fuel pump area.

Convenience store: Construct a one-story (3,000 square-foot) convenience store in the northeast portion of the property. This building (maximum height of 26-feet) would be constructed with natural stone, painted stucco walls, and a clay tile roof. In addition to the retail sale of food, fuel and general merchandise items, the applicant is also proposing to sell alcoholic beverages (beer and wine only) in the convenience store.

Carwash: Construct a one-story automated car wash in the southeastern portion of the site, behind the proposed fuel pump area. The plans indicate that the design of this structure would match the architectural style of the convenience store.

Parking: A total of 16 parking spaces would be provided on site for customers and employees of the development. The amount and location of these parking spaces is consistent with requirements of the City Engineer.

Access: Vehicle access to the site would be provided via the construction of three commercial driveways; including two (30-foot wide) driveways along the eastern project frontage on East Ocean Air Drive, and one (35-foot wide) driveway along the project's Carmel Mountain Road frontage.

Landscaping: The project's landscape plan includes a variety of street trees, shrubs and groundcovers which were selected by the applicant to achieve compliance with the City's Landscape Technical Manual and the Sorrento Hills Community Plan; and features the

installation of a number of trees and decorative shrubs along the perimeter of both street frontages; and at various locations within the site's interior. In accordance with the Planning Commission's approval of this project, and prior to the recordation of any permits with the County Recorder's Office, the applicant will be required to modify the project's landscape plan to replace all deciduous trees with non-deciduous species (24-inch box "broad leaf evergreen"); and install double-rows of evergreen shrubs (4- to 5-foot high) along the project frontage on Carmel Mountain Road to provide increased screening of the proposed commercial uses.

NOTE: On March 20, 2001 Council voted unanimously to hear the appeal (Council District 2 - not present, Council District 6 - vacant).

FISCAL IMPACT:

None.

Loveland/Christiansen/KS

LEGAL DESCRIPTION:

The property is located at 11140 East Ocean Air Drive, on the southwest corner of Carmel Mountain Road and East Ocean Air Drive in the Sorrento Hills community and is more particularly described as Parcel 1, Map 18123.

FILE LOCATION: SUBITEMS A & B: PERM-99-1200 (65)

COUNCIL ACTION: (Tape location: C115-230; E325-H125.)

Hearing began at 11:38 a.m. and recessed at 11:47 a.m.

Hearing resumed at 3:25 p.m. and halted at 5:24 p.m.

Testimony in opposition by James Cleary, Mira Martin, Kathryn Burton, Keith Willerman, Ray Skoff, Stacy Bermingham, Jack Donner, Jim Casale, Sara Isgur, Dr. Roger McKenna, Walter Bays, and Grazyna Krajewska.

Testimony in favor by Christopher Neils, Patrick Beatty, Mark Eggiman, Richard Jones, Patty Krebs, and Mitch Mitchell.

MOTION BY PETERS TO CONTINUE TO TUESDAY, JUNE 26, 2001, TO ALLOW FOR THE TIME NECESSARY TO COME BACK TO COUNCIL WITH A CITE SPECIFIC HEALTH RISK ASSESSMENT AT CHEVRON'S EXPENSE. Second by Madaffer. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, District 6-vacant, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-333: Fox Hollow Apartments Proposed Multifamily Housing Revenue Bond Issuance.

(See San Diego Housing Commission Report HCR-01-046. City Heights Community Area. District-3.)

SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1338) FILED

Directing the Housing Commission to withdraw the application made to the California Debt Limit Allocation Committee (CDLAC) for Bonding Authority for the Fox Hollow Apartments.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: C263-382; D006-E325.)

MOTION BY ATKINS TO FILE THIS ITEM TO DENY STAFF'S RECOMMENDATION, AND TO LET THE APPLICATION PROCEED. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, District 6-vacant, Madaffer-nay, Inzunza-yea, Mayor Murphy-yea.

ITEM-334: Limited 24-Hour Beach Alcohol Restriction.

COUNCILMEMBER WEAR'S RECOMMENDATION:

Introduce the following ordinance:

(O-2001-134) INTRODUCED, TO BE ADOPTED APRIL 30, 2001

Introduction of an Ordinance amending Section 56.54 of the San Diego Municipal Code, pertaining to Alcohol Consumption in Beach Areas, to prohibit public consumption of alcohol for an 18 month trial period from June 1, 2001 to December 31, 2002 on the beaches facing both the ocean and Mission Bay: (i) in Mission Beach from the south jetty north to Pacific Beach Drive and (ii) in Pacific Beach from Pacific Beach Drive north to Felspar Street;

Directing the Police Department to collect the most accurate information possible on arrests and citations on these beaches during this period;

Declaring that upon the termination of the trial period, the City Manager shall report to the Public Safety and Neighborhood Services Committee on the statistics during the period for alcohol-related violations of law and other problems in the beach areas covered by the provisions for Section 56.54.

SUPPORTING INFORMATION:

This matter was first heard at the Public Safety & Neighborhood Services Committee on January 24, 2001 and again on April 4, 2001. The original proposal was for citywide 24-hour beach alcohol restrictions but has been modified to an 18 month trial period applying only to those portions of Mission Beach and Pacific Beach, bay and ocean side, from the south jetty to the Crystal Pier. On April 4, 2001, after representative public testimony at both public hearings, PS&NS voted 2-2 in support for the modified proposal. The 18 month trial period seeks to determine if a limited 24-hour beach alcohol restriction would reduce alcohol-related impacts in the community.

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: H135-J567.)

MOTION BY WEAR TO INTRODUCE THE ORDINANCE AS OUTLINED TO AMEND SECTION 56.54 OF THE SAN DIEGO MUNICIPAL CODE PERTAINING TO ALCOHOL CONSUMPTION IN BEACH AREAS. TO PROHIBIT PUBLIC CONSUMPTION OF ALCOHOL FOR AN 18 MONTH TRIAL PERIOD FROM JUNE 1, 2001, TO DECEMBER 31, 2002, AT THOSE PORTIONS OF MISSION BEACH AND PACIFIC BEACH, BAY AND OCEAN SIDE, FROM THE SOUTH JETTY TO THE FIRST PUBLIC STREET NORTH OF CRYSTAL PIER, WHICH IS FELSPAR STREET, AND ON THE BAY SIDE TO ZANZABAR COURT. IN ADDITION, TO DIRECT THE POLICE DEPARTMENT TO COLLECT THE MOST ACCURATE INFORMATION POSSIBLE ON ARRESTS AND CITATIONS AT THESE BEACHES DURING THIS PERIOD. FURTHER, TO DIRECT THAT UPON TERMINATION OF THE TRIAL PERIOD, THE CITY MANAGER SHALL REPORT TO THE PUBLIC SAFETY AND SERVICES COMMITTEE ON THE STATISTICS DURING THAT PERIOD OF ALCOHOL RELATED VIOLATIONS, AND OTHER PROBLEMS IN THE BEACH AREAS COVERED BY THE PROVISION IN SECTION 56.54.

Second by Stevens. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-nay, District 6-vacant, Madaffer-nay, Inzunza-nay, Mayor Murphy-yea.

NON-DOCKET:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 6:40 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: J568.)